IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WA.No. 1116 of 2007()

AGAINST THE JUDGEMENT IN WPC.7366/2007 Dated 06/03/2007
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APPELLANT/PETITIONER

K.P.LUKA, S/O.PATHROSE, AGED 60 YEARS,
KUNNATHKALAYATHOLIL, MARANGATTUPALLY KARA,
ELAYACKADU VILLAGE, MEENACHIL TALUK, KOTTAYAM
DISTRICT.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS/RESPONDENTS:
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1. THE SALE TAX OFFICER,
COMMERCIAL TAX OFFICE, PALA.

2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOLLAM.

3. THE DEPUTY TAHSILDAR, REVENUE RECOVERY,
PALA.

4. THE VILLAGE OFFICER, ELAYACKADU VILLAGE,
MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY SENIOR GOVERNMENT PLEADER SHRI M.R. SABU.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1116 OF 2007

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Dated this the 23rd May, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Aggrieved by the judgment dated 06.03.2007 in W.P.(C) 7366 of 2007, the petitioner is before us in this appeal.

2. Facts in nut shell are the following:

Being aggrieved by the orders of assessment passed by the assessing authority for the assessment year 2001-2002 under the provisions of Kerala General Sales Tax Act, the petitioner had filed an appeal before the Deputy Commissioner (Appeals), Commercial Taxes, Kollam. Along with the appeal, he had filed a stay petition also requesting the appellate authority to grant an unconditional interim order staying the orders of assessment passed by the assessing authority for the assessment year 2001-2002 and the demand notice issued pursuant to the said assessment order. The first appellate authority, after considering the plea of the assessee, by order dated 23.02.2007, has granted an interim order of stay, subject to the condition that the petitioner shall deposit 50% of the amount demanded in the demand notice and for the balance amount, to shall furnish adequate security to the satisfaction of the assessing authority.

3. Being aggrieved by the said interim order dated 23.03.2007 passed by the first appellate authority , the petitioner was before this court in

Writ Petition No. 7366 of 2007. Taking a very sympathetic view of the matter, the learned single Judge has modified the interim order passed by the first appellate authority. Not being satisfied with the said order, the petitioner is before us in this appeal.

4. In the normal course, interim orders passed by the authorities under the act would not be interfered by this court except under exceptional circumstances. This Court, taking into consideration the financial constraints of the petitioner, has thought it fit to modify the interim order. The petitioner should thank his stars. Instead of that, he has filed this appeal before us. Having gone through the order passed by the first appellate authority and the modified interim order passed by this court, we are of the firm opinion that this court has not committed any error whatsoever and that the impugned order need not be interfered.

Accordingly, the appeal is rejected. Liberty is reserved to the petitioner to move the first appellate authority for hearing of the appeal out of turn.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/DK